

## PROOF OF CLAIM AND RELEASE FORM

### Deadline for Submission: October 10, 2023

If you purchased or otherwise acquired defendant 22nd Century Group, Inc. (“22nd Century”) securities during the period from February 18, 2016 through July 31, 2019, inclusive (the “Settlement Class Period”), and were allegedly damaged thereby you are a “Settlement Class Member” and you may be entitled to share in the settlement proceeds. (Excluded from the Settlement Class are Defendants, the officers and directors of 22nd Century, at all relevant times, members of their immediate families and their legal representatives, heirs, successors or assigns and any entity in which Defendants have or had a controlling interest, and any persons or entities who properly exclude themselves by filing a valid and timely request for exclusion.)

If you are a Settlement Class Member, you must complete and submit this Claim Form and Release Form (“Claim Form”) in order to be eligible for any Settlement benefits. You can complete and submit the electronic version of this Claim Form by 11:59 p.m. EST on October 10, 2023 at [www.22ndCenturySecuritiesLitigation.com](http://www.22ndCenturySecuritiesLitigation.com).

If you do not complete and submit an electronic version of this Claim Form, you must complete and sign this Claim Form and mail it by first class mail, postmarked or submitted online no later than October 10, 2023, to the Claims Administrator, at the following address:

22nd Century Securities Litigation  
c/o Epiq  
P.O. Box 3839  
Portland, OR 97208-3839

Your failure to submit your claim by October 10, 2023 will subject your claim to rejection and preclude you from receiving any money in connection with the Settlement of this Action. Do not mail or deliver your claim to the Court or to any of the Parties or their counsel, as any such claim will be deemed not to have been submitted. Submit your claim only to the Claims Administrator. If you are a Settlement Class Member and do not submit a proper Claim Form, you will not share in the Settlement, but you nevertheless will be bound by the Judgment of the Court unless you exclude yourself.

Submission of a Claim Form does not assure that you will share in the proceeds of the Settlement.

### CLAIMANT’S STATEMENT

1. I (we) purchased or otherwise acquired 22nd Century common stock during the Settlement Class Period. (Do not submit this Claim Form if you did not purchase or otherwise acquire 22nd Century common stock during the Settlement Class Period.)
2. By submitting this Claim Form, I (we) state that I (we) believe in good faith that I am (we are) a Settlement Class Member(s) as defined above and in the Notice of (I) Pendency of Class Action, Certification of Settlement Class, and Proposed Settlement; (II) Settlement Hearing; and (III) Motion for an Award of Attorneys’ Fees and Reimbursement of Litigation Expenses (the “Notice”), or am (are) acting for such person(s); that I am (we are) not a Defendant in the Action or anyone excluded from the Settlement Class; that I (we) have read and understand the Notice; that I (we) believe that I am (we are) entitled to receive a share of the Net Settlement Fund, as defined in the Notice; that I (we) elect to participate in the proposed Settlement described in the Notice; and that I (we) have not filed a request for exclusion. (If you are acting in a representative capacity on behalf of a Settlement Class Member [e.g., as an executor, administrator, trustee, or other representative], you must submit evidence of your current authority to act on behalf of that Settlement Class Member. Such evidence would include, for example, letters testamentary, letters of administration, or a copy of the trust documents.)
3. I (we) consent to the jurisdiction of the Court with respect to all questions concerning the validity of this Claim Form. I (we) understand and agree that my (our) claim may be subject to investigation and discovery under the Federal Rules of Civil Procedure, provided that such investigation and discovery shall be limited to my (our) status as a Settlement Class Member(s) and the validity and amount of my (our) claim. No discovery shall be allowed on the merits of the Action or Settlement in connection with processing of the Claim Form.
4. I (we) have set forth where requested below all relevant information with respect to each purchase or acquisition of 22nd Century securities during the Settlement Class Period, and each sale, if any, of such securities. I (we) agree to furnish additional information to the Claims Administrator to support this claim if requested to do so.

5. I (we) have enclosed photocopies of the stockbroker's confirmation slips, stockbroker's statements, or other documents evidencing each purchase/acquisition and sale of 22nd Century common stock listed below in support of my (our) claim. (IF ANY SUCH DOCUMENTS ARE NOT IN YOUR POSSESSION, PLEASE OBTAIN A COPY OR EQUIVALENT DOCUMENTS FROM YOUR BROKER OR TAX ADVISOR BECAUSE THESE DOCUMENTS ARE NECESSARY TO PROVE AND PROCESS YOUR CLAIM.)
6. I (we) understand that the information contained in this Claim Form is subject to such verification as the Claims Administrator may request or as the Court may direct, and I (we) agree to cooperate in any such verification. (The information requested herein is designed to provide the minimum amount of information necessary to process most simple claims. The Claims Administrator may request additional information as required to efficiently and reliably calculate your Recognized Loss (as that term is defined in the Notice). In some cases, the Claims Administrator may condition acceptance of the claim based upon the production of additional information, including, where applicable, information concerning transactions in any derivative securities such as options.)
7. Upon the occurrence of the Court's approval of the Settlement, as detailed in the Notice, I (we) agree and acknowledge that my (our) signature(s) hereto shall effect and constitute a full and final release, relinquishment and discharge by me (us) and my (our) successors and assigns in any capacity (or, if I am (we are) submitting this Claim Form on behalf of a corporation, a partnership, estate or one or more other persons, by it, him, her, or them, and by its, his, her, or their successors and assigns in any capacity) of each of the "Releasees" of all "Released Claims," as those terms are defined in the Stipulation of Settlement, dated March 21, 2023 ("Stipulation"). I (we) further agree and acknowledge that I (we) and anyone claiming through or on my behalf (or, if I am (we are) submitting this Claim Form on behalf of a corporation, a partnership, estate, or one or more other persons, by it, him, her, or them and anyone claiming through or on its, his, her, or their behalf), will be permanently and forever barred and enjoined from commencing, instituting, prosecuting or continuing to prosecute, in any capacity, any action or other proceeding in any court of law or equity, arbitration tribunal, administrative forum, or any other forum asserting the Released Claims against any of the Releasees.
8. Upon the occurrence of the Court's approval of the Settlement, as detailed in the Notice, I (we) agree and acknowledge that my (our) signature(s) hereto shall effect and constitute a covenant by me (us) and anyone claiming through or on my behalf (or, if I am (we are) submitting this Claim Form on behalf of a corporation, a partnership, estate or one or more other persons, by it, him, her or them, and anyone claiming through or on its, his, her, or their behalf) to permanently refrain from instituting, commencing or prosecuting in any capacity any Released Claims against any of the Releasees.
9. "Releasees" has the meaning laid out in the Stipulation.
10. "Released Claims" has the meaning laid out in the Stipulation.
11. "Unknown Claims" has the meaning laid out in the Stipulation.
12. I (we) acknowledge that I (we) may hereafter discover facts in addition to or different from those which I (we) now know or believe to be true with respect to the subject matter of the Released Claims, but expressly fully, finally, and forever settle and release, any and all Released Claims, known or Unknown Claims, suspected or unsuspected, contingent or non-contingent, whether or not concealed or hidden, which now exist, or heretofore have existed, upon any theory of law or equity now existing or coming into existence in the future, including, but not limited to, conduct which is negligent, intentional, with or without malice, or a breach of any duty, law, or rule, without regard to the subsequent discovery or existence of such different or additional facts.
13. I (We) acknowledge that the inclusion of "Unknown Claims" in the definition of claims released pursuant to the Stipulation was separately bargained for and is a material element of the Settlement of which this release is a part.
14. NOTICE REGARDING INSTITUTIONAL FILERS: Representatives with authority to file on behalf of (a) accounts of multiple Settlement Class Members and/or (b) institutional accounts with large numbers of transactions ("Representative Filers") must submit information regarding their transactions in an electronic spreadsheet format. If you are a Representative Filer, you must contact the Claims Administrator at [info@22ndCenturySecuritiesLitigation.com](mailto:info@22ndCenturySecuritiesLitigation.com) or visit their website at [www.22ndCenturySecuritiesLitigation.com](http://www.22ndCenturySecuritiesLitigation.com) to obtain the required file layout. Claims which are not submitted in electronic spreadsheet format and in accordance with the Claims Administrator's instructions may be subject to rejection. All Representative Filers MUST also submit a manually signed Claim Form, as well as proof of authority to file (see Item 2 of the Claimant's Statement), along with the electronic spreadsheet format. No claims submitted in electronic spreadsheet format will be considered to have been properly submitted unless the Claims Administrator issues to the Claimant a written acknowledgment of receipt and acceptance of electronically submitted data.

15. NOTICE REGARDING ONLINE FILING: Claimants who are not Representative Filers may submit their claims online using the electronic version of the Claim Form hosted at [www.22ndCenturySecuritiesLitigation.com](http://www.22ndCenturySecuritiesLitigation.com). If you are not acting as a Representative Filer, you do not need to contact the Claims Administrator prior to filing; you will receive an automated e-mail confirming receipt once your Claim Form has been submitted. If you are unsure if you should submit your claim as a Representative Filer, please contact the Claims Administrator at [info@22ndCenturySecuritiesLitigation.com](mailto:info@22ndCenturySecuritiesLitigation.com) or (888) 576-4721. If you are not a Representative Filer, but your claim contains a large number of transactions, the Claims Administrator may request that you also submit an electronic spreadsheet showing your transactions to accompany your Claim Form.

**PART I - CLAIMANT INFORMATION**

Beneficial Owner's First Name	MI	Beneficial Owner's Last Name
<input type="text"/>	<input type="text"/>	<input type="text"/>

Co-Beneficial Owner's First Name	MI	Co-Beneficial Owner's Last Name
<input type="text"/>	<input type="text"/>	<input type="text"/>

Entity Name (if Beneficial Owner is not an individual)

Representative or Custodian Name (if different from Beneficial Owner[s] listed above)

Address 1 (street name and number)

Address 2 (apartment, unit or box number)

City	State	ZIP Code
<input type="text"/>	<input type="text"/>	<input type="text"/> - <input type="text"/>

Country

Last four digits of Social Security Number or Taxpayer Identification Number

Telephone Number (Day)

 -  - 

Telephone Number (Evening)

 -  - 

Email address (Email address is not required, but if you provide it you authorize the Claims Administrator to use it in providing you with information relevant to this claim)

Account Number (where securities were traded)

**II. SCHEDULE OF TRANSACTIONS IN 22ND CENTURY SECURITIES**

**Beginning Holdings:**

A. State the total number of 22nd Century common stock held at the opening of trading on February 18, 2016 (*must be documented*). If none, write "zero" or "0." [ ][ ][ ][ ][ ][ ][ ][ ] • [ ][ ]

**Purchases/Acquisitions:**

B. Separately list each and every purchase or acquisition of XXII shares from February 18, 2016 through October 29, 2019, both dates inclusive, and provide the following information (*must be documented*):<sup>1</sup>

Purchase or Acquisition Date (List Chronologically) (Month/Day/Year)	Number of Shares Purchased/Acquired	Price per Share	Total Cost (Excluding Commissions, Taxes, and Fees)
[ ][ ][ ][ ][ ][ ][ ][ ]	[ ][ ][ ][ ][ ][ ][ ][ ] • [ ][ ]	\$ [ ][ ][ ][ ][ ][ ][ ][ ] • [ ][ ]	\$ [ ][ ][ ][ ][ ][ ][ ][ ] • [ ][ ]
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**Sales:**

C. Separately list each and every sale of XXII shares from February 18, 2016 through October 29, 2019, both dates inclusive, and provide the following information (*must be documented*):

Sale Date (List Chronologically) (Month/Day/Year)	Number of Shares Sold	Price per Share	Amount Received (Excluding Commissions, Taxes, and Fees)
[ ][ ][ ][ ][ ][ ][ ][ ]	[ ][ ][ ][ ][ ][ ][ ][ ] • [ ][ ]	\$ [ ][ ][ ][ ][ ][ ][ ][ ] • [ ][ ]	\$ [ ][ ][ ][ ][ ][ ][ ][ ] • [ ][ ]
[ ][ ][ ][ ][ ][ ][ ][ ]	[ ][ ][ ][ ][ ][ ][ ][ ] • [ ][ ]	\$ [ ][ ][ ][ ][ ][ ][ ][ ] • [ ][ ]	\$ [ ][ ][ ][ ][ ][ ][ ][ ] • [ ][ ]
[ ][ ][ ][ ][ ][ ][ ][ ]	[ ][ ][ ][ ][ ][ ][ ][ ] • [ ][ ]	\$ [ ][ ][ ][ ][ ][ ][ ][ ] • [ ][ ]	\$ [ ][ ][ ][ ][ ][ ][ ][ ] • [ ][ ]

**Ending Holdings:**

D. State the total number of XXII shares held at the close of trading on October 29, 2019 (*must be documented*). If none, write "zero" or "0." [ ][ ][ ][ ][ ][ ][ ][ ] • [ ][ ][ ][ ]

**III. TAXPAYER IDENTIFICATION NUMBER**

The Claimant Information form above requests a Taxpayer Identification Number. For most individuals, this is your Social Security Number. The Internal Revenue Service ("I.R.S.") requires such taxpayer identification number. If you fail to provide this information, your claim may be rejected.

**IV. CERTIFICATION**

I (We) submit this Claim Form under the terms of the Settlement described in the Notice. I (We) also submit to the jurisdiction of the United States District Court for the Western District of New York, with respect to my (our) claim as a Settlement Class Member(s) and for purposes of enforcing the release and covenant not to sue set forth herein. I (We) further acknowledge that I am (we are) bound by and subject to the terms of any judgment that may be entered in this Action. I (We) have not submitted any other claim covering the same purchases/acquisitions or sales of 22nd Century securities during the Settlement Class Period and know of no other Person having done so on my (our) behalf.

<sup>1</sup> Please Note: Information requested with respect to your purchases/acquisitions of 22nd Century common stock from after the opening of trading on August 1, 2019, through and including October 29, 2019, is needed in order to balance your claim; purchases/acquisitions during this period, however, are not eligible under the Settlement and will not be used for purposes of calculating your Recognized Loss pursuant to the Plan of Allocation.

I (We) certify that I am (we are) NOT subject to backup withholding under the provisions of Section 3406 (a)(1)(c) of the Internal Revenue Code because: (a) I am (We are) exempt from backup withholding; or (b) I (We) have not been notified by the I.R.S. that I am (we are) subject to backup withholding as a result of a failure to report all interest or dividends; or (c) the I.R.S. has notified me (us) that I am (we are) no longer subject to backup withholding.

NOTE: If you have been notified by the I.R.S. that you are subject to backup withholding, please strike out the language that you are not subject to backup withholding in the certification above.

#### V. DECLARATION UNDER PENALTY OF PERJURY, SIGNATURE, & DATE

UNDER THE PENALTIES OF PERJURY UNDER THE LAWS OF THE UNITED STATES, I (WE) CERTIFY THAT ALL OF THE INFORMATION I (WE) PROVIDED ON THIS PROOF OF CLAIM AND RELEASE FORM IS TRUE, CORRECT AND COMPLETE.

Signature of Claimant (If this claim is being made on behalf of Joint Claimants, then each must sign):

(Signature)

(Signature)

(Capacity of person(s) signing, e.g. beneficial purchaser(s), executor, administrator, trustee, etc.)

Check here if proof of authority to file is enclosed. (See Item 2 under Claimant's Statement)

Date:   -   -      
MM DD YYYY

**THIS CLAIM FORM MUST BE SUBMITTED ELECTRONICALLY AT [WWW.22NDCENTURYSECURITIESLITIGATION.COM](http://WWW.22NDCENTURYSECURITIESLITIGATION.COM) BY 11:59 P.M. EST ON OCTOBER 10, 2023, OR MAILED TO THE CLAIMS ADMINISTRATOR AT THE BELOW ADDRESS, POSTMARKED OR SUBMITTED ONLINE NO LATER THAN OCTOBER 10, 2023:**

22nd Century Securities Litigation  
c/o Epiq  
P.O. Box 3839  
Portland, OR 97208-3839

A Claim Form received by the Claims Administrator shall be deemed to have been submitted when posted, if mailed by October 10, 2023 and if a postmark is indicated on the envelope and it is mailed first class and addressed in accordance with the above instructions. In all other cases, a Claim Form shall be deemed to have been submitted when actually received by the Claims Administrator.

The Claims Administrator will acknowledge receipt of your Claim Form by mail or email within 45 days of receipt. Your claim is not deemed filed until you receive such an acknowledgement. If you do not receive an acknowledgement within 45 days, please contact the Claims Administrator by telephone toll free at (888) 576-4721 or by email at [info@22ndCenturySecuritiesLitigation.com](mailto:info@22ndCenturySecuritiesLitigation.com).

You should be aware that it will take a significant amount of time to process fully all of the Claim Forms and to administer the Settlement. This work will be completed as promptly as time permits, given the need to investigate and tabulate each Claim Form. Please notify the Claims Administrator of any change of address.

**REMINDER CHECKLIST**

- Please be sure to sign this Claim Form on page 5. If this Claim Form is submitted on behalf of joint claimants, then each claimant must sign.
- Please remember to attach supporting documents. Do NOT send any stock certificates. Keep copies of everything you submit.
- Do NOT use highlighter on the Claim Form or any supporting documents.
- If you move or change your address, telephone number, or email address, please submit the new information to the Claims Administrator, as well as any other information that will assist us in contacting you. NOTE: Failure to submit updated information to the Claims Administrator may result in the Claims Administrator's inability to contact you regarding issues with your claim or deliver payment to you.